

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 FEB 14 AM 9:32

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Kristina Ann LEONARDO

Defendant.

Magistrate Case No.

BY '08 MJ 04 25

DEPUTY

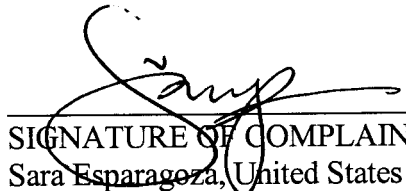
COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section
1324(a)(2)(B)(iii)-
Bringing in Illegal Alien
Without Presentation

The undersigned complainant being duly sworn states:

On or about **February 12, 2008**, within the Southern District of California, defendant **Kristina Ann LEONARDO**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Magaly GARCIA-Cruz**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

Sworn to before me and subscribed in my presence, this 14th day of **February, 2008**.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

The complainant states that **Magaly GARCIA-Cruz** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material; that it is impracticable to secure her attendance at trial by subpoena; and that she is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On February 12, 2008, at about 10:53 p.m., **Kristina Ann LEONARDO (Defendant)** was waiting to make application for admission into the United States at the San Ysidro Port of Entry, as the driver of gold Buick Century. Also applying for admission as passengers in the vehicle were Margarita Rodriguez and her minor child. While conducting pre-primary operations, a Customs and Border Protection Canine Enforcement Officer (CEO) became aware that his Human and Narcotic Detector service canine had taken an interest to the trunk of the vehicle. The CEO Officer requested assistance and two officers of the Anti-Terrorism Contraband Enforcement Team (A-TCET) responded.

An A-TCET officer requested the vehicle keys and registration from Defendant. The officer also requested identification. Defendant complied and handed the requested items to the CBP Officer who noticed that Defendant appeared nervous, particularly that her hands were visibly shaking. Defendant was questioned regarding the purpose of her travel to Mexico. Defendant stated she traveled to Mexico to drop someone off at the airport. Defendant claimed ownership of the vehicle and gave a negative customs declaration. The CBP Officer observed Defendants speech begin to break and that she was speaking in a soft tone when responding to the questions asked of her. The CBP Officer conducted a cursory examination of the vehicle and discovered a non-factory compartment located between the rear passenger seat and the trunk area of the vehicle. The vehicle and its occupants were escorted to secondary for further inspection.

In secondary, officers gained access to the compartment by pulling the rear seat back rest forward. Once accessed was gained, two persons beings were discovered sitting on an area where the fuel tank was once located. An alternate fuel source was located directly beneath the center of the rear seating area. The two persons were extracted from the vehicle and determined to be citizens of Mexico without legal documentation to enter the United States. One was retained as a material witness and is now identified as **Magaly GARCIA-Cruz (Material Witness)**.

During a video-taped interview, Defendant was advised of her Miranda rights and elected to make a statement without the presence of counsel. Defendant admitted knowledge of two undocumented aliens concealed within the vehicle. Defendant admitted she was to transport the vehicle with the undocumented aliens to Anaheim, California. Defendant admitted she believed she was to receive \$1000.00 USD for the smuggling act.

During a videotaped interview, Material Witness admitted she is a citizen of Mexico without documentation that would permit her legal entry into the United States. Material Witness admitted arrangements were made for her to be smuggled into the United States for an undisclosed amount that would have been payable upon her successful entry. Material Witness admitted she intended to travel to California to seek employment and residency.